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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,447	09/04/2003	Timothy L. Guerrettaz	GUER.001	6445

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Steven L. Christian
3810 Shindler Court
Missouri City, TX 77459

EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/655,447	Applicant(s) GUERRETTAZ, TIMOTHY L.	
	Examiner Jerome W. Donnelly	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/3/05
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/21/05</u> | 6) <input type="checkbox"/> Other: _____ |

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In response to applicant arguments directed towards Evans being applied as a 35 USC 102 rejection the examiner agrees that this rejection should be withdrawn as applied to claim 1, 9 and 11.

The examiner has considered the applicants arguments as directed toward the combination of Petrone in view of Berry. It is of the examiners opinion that the prior art Berry fig. 5A, teaches the application of weight means element (62) used as stabilizing means/or possibly storage weight means.

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to provide such stabilizing means on other devices such as the device of Petrone.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 6 and 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrone in view of Berry.

Petrone discloses the device of claims 1, 2 and 4-8 absent the feature of a lower section having bars upon which weight-training plates having bores may be stored. (Petrone Elements 108 and 110 which are considered as arms).

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Berry teaches a lower section having bars for storing weights having bores.

Given the above teachings the examiner notes that it would have been obvious to one of ordinary skill in the art to include bars on the device of Petrone for the purpose of aiding in the stabilization of the device of Petrone.

Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Berry.

Evans discloses the device of claims 1 and 9 substantially as claimed absent the teaching of providing weight plate bars.

Berry discloses a device comprising weight plate bars.

Given the above teaching of Berry the examiner notes that it would have been obvious to one of ordinary skill in the art to provide similar bar members to the device of Evans for the purpose of storing weight plates and stabilizing the device by adding weight.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 13, 17, 20 and 21 rejected under 35 U.S.C. 102(b) as being anticipated by Desjardins.

As broadly claimed elements 62 and 63 comprise a rack. Applicant has not claimed any specific of a rack.

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In regard to claim 13 note elements (88).

In regard to claim 12, rack 62 and 102 also include arms which incline outwardly (not labeled).

In regard to claim 21 note elements 88.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desjardins.

In regard to claim 14 the examiner notes that it would have been obvious to manufacture the device of Desjardins to receive plates holding at least 25lbs.

The examiner considers the angle of the bars (88) of Desjardins as arbitrary and to manufacture them at a thirty-degree angle is obvious unless the applicant prove the criticality of a thirty-degree angle.

In regard to claim 16 note opposing bar members (88 and 108).

Claims 1, 2, 3, 12 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Petrone in view of Desjardins.

The examiner notes that it would have been obvious to include the horizontally extending weight plate supporting bars on the lower end of the vertical stand of Petrone in view of the plurality of bars (88) located at the lower end of the frame member of Desjardins.

Claims 10, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrone in view of Desjardins and further in view of Ho.

Petrone in view of Desjardins discloses the device of claims 10 and 19 substantially as claimed absent the device including a latch member.

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Ho discloses a latch member for securing a dumbbell to the rack.

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to include a latch member on the device of Petrone in view of Desjardins for the purpose of locking the dumbbell to the device.

Claims 11, 12, 13, 17 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Desjardins.

In regard to claim 11 Desjardins discloses inclined arms (not labeled) as a portion of stand (102), (62).

As broadly claimed the elements 62 and 63 comprise a rack capable of support weights. Applicant has not claimed any specifics of the rack.

In regard to claim 12 note elements (88).

Claims 12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ammoscato et al in view of Schoolfield.

Ammoscato et al discloses a device comprising, a load bearing stand (30)/column, a plurality of arms extending outwardly therefrom an opposing sides of said column. A dumbbell rack is connected to each arm and said dumbbell rack having sections which are perpendicular to sections of each arm.

Ammoscato et al however fails to disclose his device wherein it includes arms that incline.

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Schoolfield however teaches providing supporting arms of dumbbell racks which incline see fig. 1 element (26).

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to manufacture the frame members of a dumbbell supporting racks as being inclined in view of elements 26 of Schoolfield.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly



Primary